IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

CHRIS BOJAN, KURT V. CORNIELSEN, GARRETT FIFE, ALI GHAJARNIA, MARCUS HESS, LUCAS HULING, TIMOTHY KACMAR, THOMAS KANE, SARAH KETVIRTIS, MINJONG KIM, JEFF KNOECK, AARON LASOTA, BRUCE LAWRENCE JR., MATT LECH, JASON LEUNG, DAVE LOHMANN, MOHAMMAD MALEK, RICH MARYNOWKSI, ADITYA MEHTA, ERIC MOLAS, MATT NUCCIO, LUIS RAMIREZ, MICHAEL RICHARDS, IAN REID, BRET RIETOW, ANDERSEN SCHNEIDER, RYAN SHERMAN, ERIC SZURGOT, MITCH TYSON, ALAN URBAN, and TONI VOLLMERS, all individuals,	)	Case No.
Plaintiffs,	)	**PLAINTIFFS DEMAND TRIAL BY JURY**
v.	)	
INFINIUM CAPITAL HOLDINGS, LLC, a Delaware limited liability company, INFINIUM CAPITAL MANAGEMENT, LLC, a Delaware limited liability company and GEORGE HANLEY, CHARLES F. WHITMAN, NATHAN LAURELL, GREGORY EICKBUSH, BRIAN JOHNSON, and SCOTT ROSE, all individuals,	)	
Defendants.	)	

COMPLAINT

Plaintiffs, CHRIS BOJAN, KURT V. CORNIELSEN, GARRETT FIFE, ALI GHAJARNIA, MARCUS HESS, LUCAS HULING, TIMOTHY KACMAR, THOMAS KANE, SARAH KETVIRITIS, MINJONG KIM, JEFF KNOECK, AARON LASOTA, BRUCE LAWRENCE JR., MATT LECH, JASON LEUNG, DAVE LOHMANN, MOHAMMAD MALEK, RICH MARYNOWKSI, ADITYA MEHTA, ERIC MOLAS, MATT NUCCIO, LUIS

RAMIREZ, MICHAEL RICHARDS, IAN REID, BRET RIETOW, RYAN SHERMAN, ERIC SZURGOT, MITCH TYSON, ALAN URBAN and TONI VOLLMERS, by and through their undersigned attorneys, complain against Defendants, INFINIUM CAPITAL HOLDINGS, LLC, INFINIUM CAPITAL MANAGEMENT, LLC, GEORGE HANLEY, CHARLES F. WHITMAN, NATHAN LAURELL, GREGORY EICKBUSH, BRIAN JOHNSON and SCOTT ROSE, as follows:

I. INTRODUCTION

1. This is a securities fraud case brought by Plaintiffs, who on or before March 2, 2012, were duped into converting loans made to Infinium Capital Holdings, LLC, an affiliate of their employer, Infnium Capital Management, LLC ("Infinium") – in some cases their life-savings – into equity to participate in the "Infinium Employee Capital Pool program" also known as the "Employee Equity Incentive Plan." Some of the Plaintiffs were later fired by Infinium.

2. Infinium is a diversified alternative asset and risk management firm with offices in Chicago, Houston, and London. According to its current website, www.infiniumcm.com/what-we-do:

> Infinium trades and makes markets electronically, on exchange floors all over the country (OTC) 23.5 hours a day, six days a week. Infinium seeks to maximize returns and, more importantly, minimize loss by trading a variety of uncorrelated strategies, adhering to stringent money management rules, and utilizing our exceptional people and software.

3. Prior to March 2, 2012, Defendants made materially false and/or misleading statements regarding Infinium, its financial condition and equity balance, Infinium's intentions with respect to raising equity from outside investors, Infinium's ability to access certain funds under its credit agreement with its lender, and the Redemption Agreement and related agreements between George Hanley, Nathan Laurell, key members and owners of Infinium, and

their affiliates, on the one hand, and Infinium, on the other hand (collectively referred to as the "Redemption Agreement").

4. Prior to March 2, 2012, Defendants also intentionally failed to disclose a variety of material facts to Plaintiffs as alleged herein that a reasonable person would have been entitled to know in considering acquiring an equity interest in Infinium.

5. Unbeknownst to Plaintiffs, the subject material acts and omissions of Defendants were, *inter alia,* intended by Defendants to impose upon Plaintiffs an excessive share of the risk of loss associated with Infinium's business, and the risks associated with the redemption of the equity of Hanley, Laurell and their affiliates pursuant to the Redemption Agreement and otherwise, and, at the same time, allow Whitman, Johnson and other members of Infinium's management to privately redeem a portion of their equity in Infinium while Infinium was suffering from undisclosed cash flow problems and was at great risk of failure if its finances did not improve.

6. Had Defendants been truthful in their disclosures and made all material facts available to Plaintiffs regarding, among other things, Infinium, its financial condition and equity balance, the status of Infinium's relationship with its lender, that Infinium was paying premiums to certain key owners of Infinium, that Whitman and Johnson were redeeming portions of their equity over the objection of Warren, the Chief Executive Officer of Infinium, and the actual terms and other implications of the Redemption Agreement, Plaintiffs would not have converted their loans to Infinium to equity, or otherwise participated in the Employee Capital Pool program.

7. Rather, in exchange for the extinguishment of their loans to Infinium, Plaintiffs would have elected by March 2, 2012, to accept a cash payment in 2012 from Infinium equal to the amount of the monies owed to them by Infinium, and they would have been made whole.

II. THE PARTIES AND OTHERS

Parties:

8. Plaintiff, Chris Bojan ("Bojan"), is a citizen of the State of Illinois and resides at 1035 Frances Court, Naperville, Illinois 60563. Bojan is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

9. Plaintiff, Kurt V. Cornielsen ("Cornielsen"), is a citizen of the State of Wisconsin and resides at W1862 Revere Court, Sheboygan, Wisconsin 53083. Corneilsen is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

10. Plaintiff, Garrett Fife ("Fife"), is a citizen of the State of Illinois and resides at 2 W. Delaware Place, Unit 2201, Chicago, Illinois 60610. Fife is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

11. Plaintiff, Ali Ghajarnia ("Ghajarnia"), is a citizen of the State of Illinois and resides at 1459 W. Melrose Street, Unit 2N, Chicago, Illinois 60657. Ghajarnia is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

12. Plaintiff, Marcus Hess ("Hess"), is a citizen of the State of Texas and resides at 2209 Grant Street, Houston, Texas 77006. Hess is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

13. Plaintiff, Lucas Huling ("Huling"), is a citizen of the State of Illinois and resides at 113 N. Parkside Avenue, Glen Ellyn, Illinois 60137. Huling is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

14. Plaintiff, Timothy Kacmar ("Kacmar"), is a citizen of the State of Colorado and resides at 13285 Braun Road, Golden, Colorado 80401. Kacmar is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

15. Plaintiff, Thomas Kane ("Kane"), is a citizen of the State of Texas and resides at 914 Brunswick Drive, Sugar Land, Texas 77478. Kane is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

16. Plantiff, Sarah Ketvirtis ("Ketvirtis"), is a citizen of the State of Illinois and resides at 5323 N. Winthrop Street, Unit 1, Chicago, Illinois 60604. Ketvirtis is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

17. Plaintiff, Minjong Kim ("Kim"), is a citizen of the State of Illinois and resides at 600 N. Lake Shore Drive, Unit 4009, Chicago, Illinois 60611. Kim is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

18. Plaintiff, Jeff Knoeck ("Knoeck"), is a citizen of the District of Columbia and resides at 2107 O Street NW, Washington D.C. 20037. Knoeck is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

19. Plaintiff, Aaron Lasota ("Lasota"), is a citizen of the State of Illinois and resides at 733 Hillbrich Court, Dyer, Illinois 46311. Lasota is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

20. Plaintiff, Bruce Lawrence Jr. ("Lawrence"), is a citizen of the State of Nebraska and resides at 5529 N. 160th Avenue, Omaha, Nebraska 68116. Lawrence is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

21. Plaintiff, Matt Lech ("Lech"), is a citizen of the State of Illinois and resides at 36857 N. Deer Trail Drive, Lake Villa, Illinois 60046. Lech is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

22. Plaintiff, Jason Leung ("Leung"), is a citizen of the State of Illinois and resides at 950 W. Huron Street, Unit 506, Chicago, Illinois 60642. Leung is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

23. Plaintiff, Dave Lohmann ("Lohmann"), is a citizen of the State of Illinois and resides at 854 N. Kingsbury Street, Unit 206, Chicago, Illinois 60610. Lohmann is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

24. Plaintiff, Mohammad Malek ("Malek"), is a citizen of the State of Illinois and resides at 1702 N. Dayton Street, Unit 1R, Chicago, Illinois 60614. Malek is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

25. Plaintiff, Rich Marynowski ("Marynowski"), is a citizen of the State of Illinois and resides at 8806 Clifton Lane, Tinley Park, Illinois 60487. Marynowski is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

26. Plaintiff, Aditya Mehta ("Mehta"), is a foreign citizen and resides at 400 Beale Street, Unit 1109, San Francisco, California 94105. Mehta is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

27. Plaintiff, Eric Molas ("Molas"), is a citizen of the State of Illinois and resides at 324 S. Taylor Street, Oak Park, Illinois 60302. Molas is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

28. Plaintiff, Matt Nuccio ("Nuccio"), is a citizen of the State of Illinois and resides at 1624 W. Division Street, Unit 409, Chicago, Illinois 60622. Nuccio is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

29. Plaintiff, Luis Ramirez ("Ramirez"), is a citizen of the State of Illinois and resides at 100 E. 14th Street, Unit 1003, Chicago, Illinois 60605. Ramirez is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

30. Plaintiff, Michael Richards ("Richards"), is a citizen of the State of Illinois and resides at 3655 N. Southport Avenue, Unit 25, Chicago, Illinois 60613. Richards is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

31. Plaintiff, Ian Reid ("Reid"), is a citizen of the State of Illinois and resides at 403 S. Cottage Hill Avenue, Elmhurst, Illinois 60126. Reid is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

32. Plaintiff, Bret Rietow ("Rietow"), is a citizen of the State of Illinois and resides at 2001 W. Wabansia Street, Unit 302, Chicago, Illinois 60022. Rietow is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

33. Plaintiff, Andersen Schneider ("Schneider"), is a citizen of the State of Pennsylvania, and resides at 2048 Appletree Street, Philadelphia, Pennsylvania. Schneider is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

34. Plaintiff, Ryan Sherman ("Sherman"), is a citizen of the State of Illinois and resides at 187 Akenside Road, Riverside, Illinois 60546. Sherman is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

35. Plaintiff, Eric Szurgot ("Szurgot"), is a citizen of the State of Illinois and resides at 1927 N. Milwaukee Street, Unit 302, Chicago, Illinois 60647. Szurgot is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

36. Plaintiff, Mitch Tyson ("Tyson"), is a citizen of the State of Illinois and resides at 1611 Montgomery Street, Deerfield, Illinois 60615. Tyson is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

37. Plaintiff, Alan Urban, ("Urban") is a citizen of the State of Illinois and resides at 1212 Roscoe Street, Unit 2, Chicago, Illinois 60657. Urban is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

38. Plaintiff, Toni Vollmers ("Vollmers"), is a citizen of the State of Texas and resides at 2209 Grant Street, Houston, Texas 77006. Vollmers is a former employee of Infinium and an investor in the Employee Capital Pool program of Infinium.

39. Defendant, Infinium, is a limited liability company organized and existing under the laws of the State of Delaware with an office located at 600 W. Chicago Avenue, Chicago, Illinois 60610.

40. Defendant, Infinium Capital Management, LLC, is a limited liability company organized and existing under the laws of the State of Delaware with an office located at 600 W. Chicago Avenue, Chicago, Illinois 60610. Infinium and Infinium Capital Management, LLC are, upon information and belief, under the common control of the Officers and Board of Managers of Infinium as alleged herein.

41. Defendant, George Hanley ("Hanley"), is a citizen of the State of Illinois and, at relevant times until May 1, 2012, was an Officer and/or a Member of the Board of Managers of Infinium.

42. Defendant, Charles F. Whitman ("Whitman"), is a citizen of the State of Illinois and, at relevant times, was an Officer and/or Member of the Board of Managers of Infinium.

43. Defendant, Nathan Laurell ("Laurell"), is a citizen of the State of Illinois and, at relevant times until May 1, 2012, was an Officer and/or Member of the Board of Managers of Infinium.

44. Defendant, Gregory Eickbush ("Eickbush"), is a citizen of the State of Illinois and, at relevant times, was an Officer and/or Member of the Board of Managers of Infinium.

45. Defendant, Brian Johnson ("Johnson"), is a citizen of the State of Illinois and, at relevant times, was an Officer and/or Member of the Board of Managers of Infinium.

46. Defendant, Scott Rose ("Rose"), is a citizen of the State of Illinois and, at relevant times, was an Officer and/or Member of the Board of Managers of Infinium.[1]

Others:

47. Mark Palchak ("Palchak") is a citizen of the State of Illinois. Palchak is currently the Chief Executive Officer of Infinium.

48. Warren Hunt ("Hunt") is a citizen of the State of Illinois. Hunt was the Chief Financial Officer of Infinium.

III. JURISDICTION AND VENUE

49. Jurisdiction over Defendants is proper by virtue of the Federal Securities Act of 1933 ("1933 Act"), and is conferred by § 27 of the Federal Securities Exchange Act of 1934 ("1934 Act"), and 28 U.S.C. § 1331. The claims asserted herein arise under § 10(b) of the 1934

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[1] Hanley, Whitman, Laurell, Eickbush, Johnson and Rose are sometimes collectively referred to as the "Individual Defendants."

Act and SEC Rule 10b-5. This Court has supplemental jurisdictions over the state law claims asserted herein (Counts II and III) under 28 U.S.C. § 1367.

50. Venue is proper in this District pursuant to § 27 of the 1934 Act and 28 U.S.C. § 1391, as many of the false and misleading statements alleged in this Complaint were made or issued in this District.

51. In connection with the material acts and omissions alleged in this Complaint, Defendants directly or indirectly used the means and instrumentalities of interstate commerce including, but not limited to, the mail and interstate wire and telephone communications. At the time of the offering identified herein, Infinium operated an office in New York, New York, and employees in that office were solicited to convert debt to equity and to purchase equity in the Employee Capital Pool program as well.

IV. ALLEGATIONS COMMON TO ALL COUNTS

52. Prior to March 2, 2012, Plaintiffs made loans to Infinium collectively in the amount of approximately $4,020,215.87, as follows:

NAME	AMOUNT OF LOAN
Bojan:	$100,000.00
Cornielsen:	$300,000.00
Fife:	$310,000.00
Ghajarnia:	$200,000.00
Hess:	$550,000.00
Huling:	$199,879.37
Kacmar:	$275,000.00
Kane:	$55,000.00
Ketviritis:	$61,7000.00
Kim:	$100,000.00
Knoeck:	$170,000.00
Lasota:	$ 5,250.00
Lawrence Jr.:	$ 70,000.00
Lech:	$ 10,000.00
Lohmann:	$ 10,212.00
Malek:	$100,000.00
Marynowski:	$ 10,000.00

Mehta:	$ 10,000.00
Molas:	$ 93,612.00
Nuccio:	$600,000.00
Ramirez:	$ 5,000.00
Richards:	$ 50,000.00
Reid:	$ 10,000.00
Rietow:	$234,562.50
Schneider:	$ 5,000.00
Sherman:	$ 75,000.00
Szurgot:	$ 5,000.00
Tyson:	$200,000.00
Urban:	$175,000.00
Vollmers:	$ 35,000.00
TOTAL:	**$4,025,215.87**

53. In approximately November 2011, Infinium, through the Individual Defendants, began exploring the purchase of the equity interests of its members, Hanley, and his affiliates. Hanley and his affiliates owned a substantial equity stake in Infinium.

54. Upon information and belief, by November 2011, Infinium had already agreed to redeem the equity interest of its menber Laurell for $8,604,779.

55. As of December 31, 2011, Infinium carried a net worth of $58,307,310 on its balance sheet – $57,335,448 of which was described as "Members' equity," and $971,862 of which was described as "Non-controlling interest." (A true and correct copy of Infinium's "Consolidated Statement of Financial Condition as of December 31, 2011," is attached hereto as Exhibit "A" and made a part hereof.)

56. Beginning on or about January 1, 2012, Infinium and the Individual Defendants began to offer Plaintiffs an opportunity to convert the loans that they had previously made to Infinium into equity in Infinium and/or to purchase equity in Infinium - essentially to replace a portion of the equity that Hanley, Laurell, and their affiliates were redeeming from Infinium and to provide trading capital for the business.

57. By e-mail dated February 14, 2012, Infinium and the Individual Defendants presented the opportunity to Plaintiffs to convert their loans into equity, or to purchase equity, in the Employee Capital Pool program, as follows:

> "Congratulations! It is with great pleasure that I extend to each of you an invitation to participate in the 2011 Infinium Employee Capital Pool Program.
>
> You are receiving this email because either you are a current investor in the Employee Capital Pool (ECP) or you are being extended an invitation to invest in 2012.
>
> As a reminder, your invitation to participate in the Infinium Employee Capital Pool program is both an honor and a privilege. The Employee Capital Pool program is something created many years ago to allow Infinium team members who demonstrated their loyalty to the firm and who embodied the Infinium culture to participate more directly in the firm's financial success. Participation is by invitation only. To all new invitees, know that your manager thought highly enough of your performance and dedication to the Infinium team to nominate you for invitation and that your nomination was approved by the Leadership team.
>
> The ECP will be significantly modified in 2012. I want the ECP to be more permanent and structured to allow participants a long-term vehicle to share in the firm's growth. The changes we are making will allow this to happen.
>
> As you consider the investment opportunity here is some additional information to help you decide how you want to proceed:
>
> - Trading Revenues for 2011 increased 25% ($134mm in 2011 vs. $107mm in 2010).
> - Net Income for the firm rose to $23mm from $16mm, an [sic] 42% increase
> - The final 2011 capital pool return is estimated to be 15%. As most of you know, 2011 was a year dedicated to building infrastructure and hiring talent to put the firm in a position to better capitalize on opportunities going forward. The infrastructure is in place to drive revenue and increase returns, the challenge is on each of us to make it happen. I am confident we are poised to meet those challenges"

58. Infinium held three so-called "town-hall" meetings on February 16, 2012; February 17, 2012; and February 22, 2012, to discuss the details and merits of converting their loans to Infinium into equity, and/or their purchase of equity in Infinium by way of the

Employee Capital Pool program. Each Plaintiff attended at least one of these three town-hall meetings, all of which were organized by Infinium to purportedly "provide [Plaintiffs] a high level overview of the goals and mechanics of the Employee Capital Pool program." Upon information and belief, these town-hall meetings were recorded electronically.

59. During these town-hall meetings and at other times prior to March 2, 2012, Defendants represented, *inter alia,* that if Plaintiffs elected to convert their loans to Infinium into equity, and/or purchase equity in Infinium, that there would be a ***single class*** of equity in Infinium and, further, that all equity holders in Infinium – current and future – would be treated ***equally*** in all respects and at all times.

60. Moreover, according to Infinium's website, as it existed both prior to March 2, 2012, and in its current form, "Infinium Asset Management, LLC actively manages assets on behalf of external investors **alongside** the capital that owners and employees have contributed. We offer fundamental arbitrage strategies across Commodities, Energies, Equities Fixed Income, and FX. The strategies are centered on the strength of our 11 year-old market making franchise." (*See www.infiniumcm.com*, emphasis added.)

61. Upon information and belief, for several months prior to Defendants' solicitation of Plaintiffs' to convert their loans to Infinium to equity in the Employee Capital Pool program, Defendants had been actively seeking the infusion of new funds in Infinium - to be contributed in return for equity - from third-party investors (who were not employed by Infinium), also referred to herein as the "Family Office Equity." Unbeknownst to Plaintiffs, in those negotiations, Defendants offered the third-party investors *superior* rights to all other equity holders in Infinium and to guarantee the equity of the third-party investors from certain losses and otherwise restrict the application of certain expenses of Infinium to that "Family Office Equity."

62. During these town-hall meetings, Defendants also touted to Plaintiffs the availability of an untapped, twenty-million dollar credit facility from Fifth Third Bank, a national banking association, that after the offering was completed on March 2, 2012, would, for cash flow purposes, be available to fund the business of Infinium and to pay down the debt due to Hanley, Laurell, and their affiliates under the Redemption Agreement.

63. Infinium prepared and disseminated on February 14, 2012, a "Private Placement Memorandum" ("PPM") to Plaintiffs - purportedly disclosing the risks associated with purchasing/acquiring equity in Infinium as described above.

64. The specific reference, in part, contained in the PPM relating to the acquisition by Infinium of the equity ownership of Hanley, Laurell, "and their affiliates," is as follows:

> **Redemption Debt**. In connection with the redemption debt of the equity of interests of ICM held by George Hanley, Nathan Laurell, and their affiliates, which redemption was effective as of January 1, 2012, the Company will issue secured debt of approximately $53,000,000. The debt owed to George Hanley, Nathan Laurell and their affiliates will be payable over a period of five (5) years….

(PPM at 13.)

65. At page 13 of the PPM, Infinium further stressed the importance of the retention of management, in particular to the continued success of the business of Infinium, as follows:

> **Business Dependent Upon Key Individuals**. The success of Infinium is significantly dependent upon the expertise of certain employees and/or Members of the Company. These include, particularly, Brian Johnson, Charles Whitman and Aaron Lebovitz."

(PPM at 13.)

66. In the course of its solicitation of Plaintiffs' conversion of their loans to equity, on March 2, 2012, Infinium wrote to Plaintiffs and explained that any monies converted from debt to equity or otherwise invested by Plaintiffs in the Employee Capital Pool program would be

redeemable 50% in the first year (2013) and 50% in the following year (2014), with the ability, if they desired, to withdraw all of their equity investments from the Employee Capital Pool program in just two years.

67. Under the terms of the proposed conversion of Plaintiffs' loans into equity, Infinium stated that if an election by Plaintiffs to do so was not made in writing by March 2, 2012, then the loans would be paid back by Infinium to Plaintiffs in 2012, and Plaintiffs would not be allowed to participate in the "more permanent and structured…long-term vehicle to share in the firm's growth" – known as the Employee Capital Pool program.

68. Prior to March 2, 2012, Defendants provided certain Plaintiffs with documents that represented that after the redemption of the equity of Hanley, Laurell and their affiliates, under the Redemption Agreement, that Infinium would have remaining equity of $49,987,424 (A true and correct copy of the referenced documentation is attached hereto as Exhibit "B" and made apart hereof.)

69. Based upon the representations made to them by Defendants referenced in Paragraphs 55 through 68 above, Plaintiffs each made the election to convert their loans to equity and, in some cases, to invest additional funds and to participate in the Employee Capital Pool program of Infinium as follows:

NAME	EQUITY
Bojan:	$100,000.00
Cornielsen:	$300,000.00
Fife:	$310,000.00
Ghajarnia:	$200,000.00
Hess:	$550,000.00
Huling:	$199,879.37
Kacmar:	$275,000.00
Kane:	$ 55,000.00
Ketviritis:	$ 61,700.00
Knoeck:	$170,000.00
Kim:	$100,000.00
Lasota:	$ 5,250.00
Lawrence Jr.:	$ 70,000.00
Lech:	$ 10,000.00
Leung:	$ 50,000.00
Lohmann:	$ 10,212.00
Malek:	$100,000.00
Marynowski:	$ 10,000.00
Mehta:	$ 10,000.00
Molas:	$ 93,612.00
Nuccio:	$600,000.00
Ramirez:	$ 5,000.00
Richards:	$ 50,000.00
Reid:	$ 10,000.00
Rietow:	$234,562.50
Schneider:	$ 5,000.00
Sherman:	$ 75,000.00
Szurgot:	$ 5,000.00
Tyson:	$200,000.00
Urban:	$175,000.00
Vollmers:	$ 35,000.00
TOTAL:	**$4,075,215.87**

70. On or about March 30, 2012, *after* all Plaintiffs had converted their Infinium loans into Infinium equity or otherwise consummated the investment of additional funds in the Infinium Employee Capital Pool program, Infinium *amended* its Operating Agreement effective January 1, 2012, to provide that in the event of a default in the payment of funds due to Hanley, Laurell and/or their affiliates under the Redemption Agreement, there would be a significant

change in the make-up of the Board of Managers of Infinium, and Whitman – one of Infinium's key employees purportedly critical to the continued profitability and success of the business – would be forced to step down as Chief Executive Officer.

71. Beginning in late 2011, Whitman and Johnson, and perhaps others, began making private, undisclosed redemptions of equity in Infinium. Some or all of these redemptions were made by Infinium over the objection of Hunt, Infinium's then Chief Financial Officer.

72. On or about March 8, 2013, Infinium suddenly suspended Plaintiff's Redemption Rights - claiming that Infinium was in default in its payment obligations under the Redemption Agreement to Hanley, Laurell, and their affiliates.

73. On or about September 1, 2013, Infinium, through Palchak, its then acting Chief Executive Officer, revealed - during an "investor call" with Plaintiffs - that the moneys invested in the Infinium Employee Capital Pool program by Plaintiffs prior to March 2, 2012, were now "worthless" and valued at "negative $18,000,000."

74. On or about September 1, 2013, Infinium, through Palchak, also claimed during the "investor call" that in order to avoid a take-over of Infinium by Hanley and the loss of Whitman's control of Infinium, Infinium had converted a portion of Hanley and Laurell's debt due under the Redemption Agreement to equity and had agreed to eliminate the Plaintiffs' Redemption Rights to their monies invested in the Employee Capital Pool program all together.

75. On or about September 1, 2013, Infinium, through Palchak, revealed during the "investor call" that while Plaintiffs' equity was now "worthless", there was *another class* of equity in Infinium, that he referred to as the "Family Office Equity." Palchak claimed that this other class of equity – believed to, in fact, be money invested by third-parties – was unaffected

by recent events – as it was superior in form to the equity of Plaintiffs and had been invested under an agreement which protected it from among other things, certain losses.

76. Upon information and belief, this purported "Family Office Equity" is superior in form and characteristics to the equity held by Plaintiffs, is protected from the reach of certain creditors of Infinium and is subject to an agreement with Infinium *restricting* both a) the losses that it could sustain and b) the application of certain expenses of Infinium to the equity.

77. The "Family Office Equity" is shown, for the first time, on Infinium's Balance Sheet dated as of December 31, 2012, as "Non-controlling equity," with a value of $23,982,750. This Balance Sheet also shows the "Members' Equity" worth a **negative** $8,500,199 less than ten months after Plaintiffs' investments in the Employee Capital Pool program were made. (A true and correct copy of the Infinium Balance Sheet dated December 31, 2012, is attached hereto as Exhibit "B" and made a part hereof.)

78. According to its Income Statement for the 2012 calendar year, Infinium suffered a loss of $6,578,458. (A copy of Infinium's Income Statement for the calendar year 2012, is attached hereto as Exhibit "C" and made a part hereof.)

79. According to its Income Statement for the period January 1, 2013, through July 31, 2013, Infinium suffered a loss of $6,112,221. (A copy of Infinium's Income Statement for the period January 1, 2013, through July 31, 2013, is attached hereto as Exhibit "D" and made a part hereof.)

COUNT I
(Violations of 10(b) of the 1934 Act and Rule 10b-5 – Against All Defendants)

80. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 79 of the Complaint as Paragraph 80 of Count 1 of the Complaint as though fully set forth herein.

81. Defendants' representation to Plaintiffs that if they elected to convert their loans to Infinium into equity in Infinium's Employee Capital Pool program, there would be only one class of equity in Infinium and that all equity holders in Infinium would share the risk of all losses equally, was false when made, and materially so.

82. After March 2, 2012, upon information and belief, there were two classes of equity interests in Infinium: (a) one which would bear risk of losses, or Plaintiffs' equity in the Employee Capital Pool program, and b) another, of which Plaintiffs were not a part, the so-called "Family Office Equity," that would bear little (or no) risk of loss and, upon information and belief, was beyond 1) the reach of certain creditors of Infinium and held subject to an agreement with Infinium restricting the losses it could sustain and, that, 2) limited the application of certain expenses of Infinium to the equity.

83. Upon information and belief, because, among other things, 1) Infinium agreed to pay Hanley, Laurell, and their affiliates an undisclosed premium for their equity interests in Infinium, and 2) the private, undisclosed redemptions of equity that were being made by Whitman, Johnson and perhaps others; Plaintiffs' class of equity as of March 3, 2012, was immediately reduced to a value below $0, a fact which was not disclosed to Plaintiffs prior to the conversion of their loans to Infinium to equity in Infinium.

84. Defendants' representation to Plaintiffs that Plaintiffs would be able to redeem 50% of their investments in the Employee Capital Pool program in year one (2013) and the other 50% in year two (2014), was false when made, and materially so.

85. As a result and because of the undisclosed cash flow problems, Infinium was suffering from at the time of the solicitation alleged herein as well as the private, undisclosed redemptions being made by Whitman, Johnson and others, it was almost certain that Infinium's

lender, Fifth Third Bank, would eventually terminate the purportedly untapped, twenty-million dollar line of credit to Infinium – which, upon information and belief, eventually it did.

86. Defendants' representation to Plaintiffs that, after the conversion of their loans to equity was completed, there would be an untapped, twenty-million dollar credit facility from Fifth Third Bank that would be available to fund the business of Infinium and the debt payments due to Hanley, Laurell, and their affiliates, was false, and materially so. In fact, the terms of the Redemption Agreement and the premium paid by Infinium to Hanley, Laurell and their affiliates as well as the private, undisclosed redemption of equity made by Whitman, Laurell and perhaps others prior to March 2, 2012, among other things, caused Infinium to be in breach of its loan covenants with Fifth Third Bank. At the time Plaintiffs invested equity in Infinium, Defendants had been seeking waivers from Fifth Third Bank for breaches of its loan covenants.

87. Defendants' representation in writing to certain Plaintiffs that after the redemption of equity interests of Hanley, Laurell and their affiliates that there would remain over $49,987,424 of equity in Infinium, was false when made, and materially so.

88. The representations made by Defendants in Paragraphs 81 through 87 above were materially false and/or misleading when made.

89. The representations made by Defendants in Paragraphs 81 through 87 above were made by Defendants knowing they were materially false when made.

90. The representations made by Defendants in Paragraphs 81 through 87 above were made for the purpose of inducing Plaintiffs to rely thereon, to cause Plaintiffs to convert their loans to Infinium into equity in Infinium, and to otherwise cause Plaintiffs to invest new monies into Infinium by way of the Employee Capital Pool program.

91. Defendants also intentionally failed to inform Plaintiffs, prior to March 2, 2012, *inter alia,* that:

a. when their equity investments were consummated, or by March 3, 2012 or shortly thereafter, the current value of their equity in Infinium would be valued at less than $0, which, upon information and belief, along with the private, undisclosed redemptions that had been (or were being) made by Whitman, Johnson and perhaps others, as well as Infinium's then cash flow problems, caused Infinium to be in breach of its loan covenants with Fifth Third Bank, and materially increased the risk that First Third Bank would terminate the purportedly untapped, twenty-million dollar line of credit to Infinium;

b. Infinium was, upon information and belief, paying Hanley, Laurell, and their affiliates an undisclosed, material premium for their equity ownership interests in Infinium in excess of their paid-in-capital and respective shares of the retained earnings of Infinium; an action that, given Infinium's cash flow problems, would burden Infinium financially and make it virtually impossible for Infinium to make the required debt payments timely to Hanley, Laurell, and their affiliates due under the Redemption Agreement;

c. Infinium had seven (7) million dollars of semi-fixed expenses each month and was suffering financially prior to the consummation of the Plaintiffs' decision to convert loans to equity;

d. Infinium had agreed, effective January 1, 2012, to an amendment to the Operating Agreement of Infinium that would cause a change in control of Infinium and the termination of Whitman as Chief Executive Officer – a key employee purportedly critical to the continued profitability and success of Infinium – in the event that Infinium was only 90 days late in a payment due to Hanley, Laurell and/or their affiliates under the Redemption Agreement of only $250,000;

e. Infinium, because of the lack of trading equity, was offering third-party investors the opportunity to invest in Infinium – in the form of equity – with *superior* rights to that of Infinium's other equity holders, including Plaintiffs;

f. by March 2, 2012, Infinium had developed a cash flow problem that had caused it to be unable to pay its **non**-Employee Capital Pool program equity holders the required return on their investments in Infinium and that they had been forced to forego the same and, in fact, several Infinium traders had warned Whitman to not go through with the Redemption Agreement with Hanley, Laurell and their affiliates, as Infinium's financial performance had been declining significantly; and

g. upon information and belief, Hanley had prior to March 2, 2012, repeatedly warned the Board of Managers of Infinium, including Whitman, Johnson and others, that buying him out under the terms of the Redemption Agreement would likely "sink" Infinium financially and result in him regaining control of Infinium due to the amendment to Infinium's Operating Agreement referenced in Paragraph 69 above.

92. Defendants purposefully withheld the information from Plaintiffs referenced in Paragraph 91 above.

93. Defendants withheld the information referenced in Paragraph 91 above in order to induce Plaintiffs to convert their loans to Infinium to equity in Infinium, rather than cash-out their loans as referenced in Paragraph 69 above.

94. The information identified in Paragraph 91 above was material, and should have been disclosed to Plaintiffs for their consideration of whether to convert their loans to Infinium into equity in Infinium, or to exchange their loans for cash.

95. As a direct and proximate result of the conduct referenced above, on which Plaintiffs relied, Plaintiffs have been damaged in the amount of $4,075,215.87.

WHEREFORE, Plaintiffs, CHRIS BOJAN, KURT V. CORNIELSEN, GARRETT FIFE, ALI GHAJARNIA, MARCUS HESS, LUCAS HULING, TIMOTHY KACMAR, THOMAS KANE, SARAH KETVIRTIS, MINJONG KIM, JEFF KNOECK, AARON LASOTA, BRUCE LAWRENCE JR., MATT LECH, JASON LEUNG, DAVE LOHMANN, MOHAMMAD MALEK, RICH MARYNOWKSI, ADITYA MEHTA, ERIC MOLAS, MATT NUCCIO, LUIS RAMIREZ, MICHAEL RICHARDS, IAN REID, BRET RIETOW, RYAN SHERMAN, ERIC SZURGOT, MITCH TYSON, ALAN URBAN and TONI VOLLMERS, pray that this Court enter judgment against Defendants, INFINIUM CAPITAL HOLDINGS, LLC, INFINIUM CAPITAL MANAGEMENT, LLC, GEORGE HANLEY, CHARLES F. WHITMAN, NATHAN LAURELL, GREGORY EICKBUSH, BRIAN JOHNSON and SCOTT ROSE, in the amount of not less than $4,075,215.87, plus expenses, costs, prejudgment interest, punitive damages in an amount sufficient to punish and deter Defendants from engaging in such misconduct in the future, and for any and all other relief that this Court deems necessary and appropriate under the circumstances.

COUNT II
(Breach of Fiduciary Duty – Against All Individual Defendants)

96. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 79 of the Complaint as Paragraph 96 of Count II of the Complaint as though fully set forth herein.

97. As members of the Board of Managers and/or Officers of Infinium, the Individual Defendants owed Plaintiffs a fiduciary duty of utmost integrity, loyalty, honesty, and sincerity.

98. Defendants breached their fiduciary duties to Plaintiffs by, *inter alia*:

a. Agreeing to amend the Operating Agreement of Infinium to allow a change of control of Infinium and the termination of Whitman – a key employee purportedly critical to the continued profitability and success of Infinium – in the event that Infinium was only 90 days late in making a debt payment of only $250,000 to Hanley, Laurell and/or their affiliates under the Redemption Agreement;

b. Agreeing in approximately August 2013, to eliminate Plaintiffs' Redemption Rights in exchange for a deal with Hanley, Laurell, and/or their affiliates that would not eliminate Whitman's position with Infinium and not cause a change of control of the same;

c. Going through with the consummation of the Redemption Agreement with Hanley, Laurell and their affiliates, when Whitman was being warned by certain trader employees of Infinium not to go through with the agreement, as Infinium's earnings were not what they had been in 2011 and its financial performance was down considerably, and would not allow Infinium to timely make the required payments to Hanley, Laurell and their associated;

d. Permitting Whitman, Johnson and perhaps others to redeem equity in Infinium over the objection of Hunt, Infinium's then Chief Financial Officer, when the business was suffering from serious cash flow problems and the redemption requests of other members of the Employee Capital Pool program were being denied; and

e. Failing to disclose to Plaintiffs, while their Redemption Rights were intact, that:

   i. After the conversion of their loans to Infinium to equity and the investment of new funds for equity was consummated by way of the Employee Capital Pool program, the net worth of their equity in Infinium would be valued at less than $0;

   ii. An amendment to the Operating Agreement of Infinium had been negotiated by March 2, 2012, effective January 1, 2012, providing for the change of control of Infinium and the termination of Whitman – a key employee purportedly critical to the continual profitability and success of Infinium – in the event of a default in the Redemption Agreement with Hanley, Laurell, and their affiliates;

   iii. At the time of the conversion of their loans to equity and the investment of new monies, Infinium had agreed to pay Hanley, Laurell, and their affiliates, an undisclosed, material premium over the book value for their equity interests in Infinium that along with its cash flow problems and the private, undisclosed redemptions of equity by Whitman, Johnson and perhaps others, made it an almost certainty that the purportedly untapped, twenty-million dollar line of credit from Fifth Third Bank would be terminated and its trading capital materially reduced, and, therefore, unlikely that Infinium would be able to make the required debt payments to Hanley, Laurell and their affiliates called for under the Redemption Agreement;

iv. Infinium had been soliciting equity from third-party investors – the so-called "Family Office Equity" – prior to March 2, 2012, and had offered terms to those third-party investors that would cause Plaintiffs' equity in the Employee Capital Pool program to be subordinated in several respects to the third-party equity and such that Plaintiffs would bear a disproportionate share of the risk of loss from the business of Infinium, and the redemptions that Infinium had agreed to be made by Hanley, Laurell and their affiliates and otherwise; and

v. Infinium, because of the significant cash flow problems that it was experiencing at the time, had reached an agreement with its **non**-Employee Capital Pool program equity holders to forego monies due to them as a return on their equity.

99. Had Plaintiffs been aware of the facts as alleged in Paragraph 98 above, they would have exercised their Redemption Rights and redeemed their equity interests in Infinium immediately and converted to cash, well before their Redemption Rights were suspended.

100. As a direct and proximate result of the conduct referenced above, Plaintiffs have been damaged in the amount of not less than $4,075,215.87.

WHEREFORE, Plaintiffs, CHRIS BOJAN, KURT V. CORNIELSEN, GARRETT FIFE, ALI GHAJARNIA, MARCUS HESS, LUCAS HULING, TIMOTHY KACMAR, THOMAS KANE, SARAH KETVIRTIS, MINJONG KIM, JEFF KNOECK, AARON LASOTA, BRUCE LAWRENCE JR., MATT LECH, JASON LEUNG, DAVE LOHMANN, MOHAMMAD

MALEK, RICH MARYNOWKSI, ADITYA MEHTA, ERIC MOLAS, MATT NUCCIO, LUIS RAMIREZ, MICHAEL RICHARDS, IAN REID, BRET RIETOW, RYAN SHERMAN, ERIC SZURGOT, MITCH TYSON, ALAN URBAN and TONI VOLLMERS, pray that this Court enter judgment against Defendants, INFINIUM CAPITAL HOLDINGS, LLC, INFINIUM CAPITAL MANAGEMENT, LLC, GEORGE HANLEY, CHARLES F. WHITMAN, NATHAN LAURELL, GREGORY EICKBUSH, BRIAN JOHNSON and SCOTT ROSE, in the amount of $4,075,215.87, plus expenses, costs, prejudgment interest, punitive damages in an amount sufficient to punish and deter Defendants from engaging in such misconduct in the future, and for any and all other relief that this Court deems necessary and appropriate under the circumstances.

COUNT III
(Common Law Fraud – Against All Defendants)

101. Plaintiffs restate and reallege the allegations contained in Paragraphs 1 through 79 of the Complaint as Paragraph 101 of Count III of the Complaint as though fully set forth herein.

102. Defendants falsely represented to Plaintiffs prior to their purchase of equity in Infinium that, *inter alia:*

a. After their purchase of equity in the Employee Capital Pool program that there would be only one class of equity in Infinium; that Infinium would not solicit or accept money by way of equity from third-party investors or otherwise in the future that would cause Plaintiffs' equity in the Employee Capital Pool program to be subordinated to other equity; and all equity holders in Infinium would share the risk of loss equally; and

b. There was an untapped, twenty-million dollar credit facility from Fifth Third Bank that would be available to fund the business of Infinium and the debt payments due to Hanley, Laurell and their affiliates under the Redemption Agreement.

103. In fact, after March 2, 2012, there were two classes of equity interests in Infinium, one which would bear all losses – Plaintiffs' equity interests in the Employee Capital Pool program – and another, of which Plaintiffs were not a part, that would bear little or no risk of loss, referred to as the "Family Office Equity."

104. The representations made by Defendants to Plaintiffs in Paragraph 102 above were materially false or misleading when made.

105. The representations made by Defendants to Plaintiffs in Paragraph 102 above were made by Defendants knowing that they were materially false or misleading when made.

106. The representations made by Defendants to Plaintiffs in Paragraph 102 above were made to induce Plaintiffs' reliance thereon, and to cause Plaintiffs to convert their loans to Infinium to equity in Infinium and to otherwise cause Plaintiffs to invest new monies into Infinium by way of the Employee Capital Pool program, rather than to elect to accept the cash pay-out offered in the alternative by Infinium.

107. Defendants failed to inform Plaintiffs prior to the conversion of their loans to Infinium to equity in Infinium that:

a. At the moment their equity investments were consummated or shortly thereafter, the value of their class of equity in Infinium would be valued per the Infinium Balance Sheet at a figure below $0;

b. Infinium was paying Hanley, Laurell, and their affiliates a material premium for their equity ownership interests in excess of their paid-in-capital and respective shares of their retained earnings in Infinium;

c. Infinium had agreed, effective January 1, 2012, to an amendment to the Operating Agreement of Infinium that would allow a change in control of Infinium and the termination of Whitman – a key employee purportedly critical to the continued profitability and success of Infinium –in the event that Infinium was only 90 days late in a payment to Hanley, Laurell and their affiliates of only $250,000 due under the Redemption Agreement;

d. Infinium had seven-million dollars of semi-fixed expenses each month and was suffering financially;

e. Shortly after their investments in the Employee Capital Pool program were made, there would be two classes of equity: one which would bear all risk of loss – Plaintiffs' equity in the Employee Capital Pool program – and another, the "Family Office Equity," which would bear little or no risk of loss, and which would cause Plaintiffs' equity to be subordinated in several material respects.

f. Infinium was, as of March 2, 2012, experiencing material and significant cash flow problems, such that the **non**-Employee Capital Pool program equity-holders had been forced to forego distributions due to them, while Infinium was starved for trading capital and it was presently redeeming the equity of Whitman, Johnson and perhaps others over the objection of Hunt, its Chief Financial Officer; and

g. Hanley had warned the Board of Managers of Infinium, Whitman and Johnson, among others, that the terms of the Redemption Agreement would likely "sink" Infinium financially and cause him to regain control of Infinium.

108. Defendants purposefully withheld said information from Plaintiffs referenced in Paragraph 107 above.

109. Defendants withheld the information identified in Paragraph 107 above to induce Plaintiffs to convert their debt in Infinium to equity in Infinium - rather than to elect to cash-out.

110. Plaintiffs' decision to convert their debt in Infinium to equity in Infinium was made in reliance upon the misrepresentations in Paragraph 107 above

111. The information identified in Paragraph 107 above was material and should have been disclosed to Plaintiffs for their consideration in deciding whether to convert their loans to Infinium to equity in Infinium, or to cash-out.

112. As a direct and proximate result of the acts of omission material to above, Plaintiffs have been damaged in the amount of not less than $4,075,215.87.

WHEREFORE, Plaintiffs, CHRIS BOJAN, KURT V. CORNIELSEN, GARRETT FIFE, ALI GHAJARNIA, MARCUS HESS, LUCAS HULING, TIMOTHY KACMAR, THOMAS KANE, SARAH KETVIRTIS, MINJONG KIM, JEFF KNOECK, AARON LASOTA, BRUCE LAWRENCE JR., MATT LECH, JASON LEUNG, DAVE LOHMANN, MOHAMMAD MALEK, RICH MARYNOWKSI, ADITYA MEHTA, ERIC MOLAS, MATT NUCCIO, LUIS RAMIREZ, MICHAEL RICHARDS, IAN REID, BRET RIETOW, RYAN SHERMAN, ERIC SZURGOT, MITCH TYSON, ALAN URBAN and TONI VOLLMERS, pray that this Court enter judgment against Defendants, INFINIUM CAPITAL HOLDINGS, LLC, INFINIUM CAPITAL MANAGEMENT, LLC, GEORGE HANLEY, CHARLES F. WHITMAN, NATHAN LAURELL, GREGORY EICKBUSH, BRIAN JOHNSON and SCOTT ROSE, in the amount of $4,075,215.87, plus expenses, costs, prejudgment interest, punitive damages in an amount sufficient to punish and deter Defendants from engaging in such misconduct in the future, and for any and all other relief that this Court deems necessary and appropriate under the circumstances.

Respectfully Submitted,

CHRIS BOJAN, KURT V. CORNEILSEN, GARRETT FIFE, ALI GHAJARNIA, MARCUS HESS, LUCAS HULING, TIMOTHY KACMAR, THOMAS KANE, SARAH KETVIRTIS, MINJONG KIM, JEFF KNOECK, AARON LASOTA, BRUCE LAWRENCE JR., MATT LECH, JASON LEUNG, DAVE LOHMANN, MOHAMMAD MALEK, RICH MARYNOWKSI, ADITYA MEHTA, ERIC MOLAS, MATT NUCCIO, LUIS RAMIREZ, MICHAEL RICHARDS, IAN REID, BRET RIETOW, RYAN SHERMAN, ERIC SZURGOT, MITCH TYSON, ALAN URBAN, and TONI VOLLMERS,
Plaintiffs

By: /s/ Daniel J. Voelker
One of Their Attorneys

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